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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,538	07/15/2003	Brian G. Payton	SVL920020046US1/3792P	8432

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IBM ST-SVL
SAWYER LAW GROUP LLP
2465 E. Bayshore Road, Suite No. 406
PALO ALTO, CA 94303

EXAMINER
TIMBLIN, ROBERT M

ART UNIT	PAPER NUMBER
2167	

NOTIFICATION DATE	DELIVERY MODE
12/22/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent@sawyerlawgroup.com

	Application No.	Applicant(s)
	10/620,538	PAYTON ET AL.
Office Action Summary	Examiner	Art Unit	
	ROBERT TIMBLIN	2167	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_
MONTH(S) OR THIRTY (30) DAYS,   WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS
COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _01 October 2008_.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _16-21,29 and 30_ is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _16-21,29 and 30_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☐ All b)☐ Some * c)☐ None of:

  1. ☐ Certified copies of the priority documents have been received.

  2. ☐ Certified copies of the priority documents have been received in Application No. _____.

  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
     application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)   4) ☐ Interview Summary (PTO-413)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   Paper No(s)/Mail Date. _____.
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)   5) ☐ Notice of Informal Patent Application
    Paper No(s)/Mail Date _____.   6) ☐ Other: _____.

DETAILED ACTION

This Office Action corresponds to application 10/620,538 filed 7/15/2003.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/1/2008 has been entered.

Response to Amendment

Claims 1-15 and 22-28 have been previously cancelled. Claim 16 and 19 have been amended and claims 29-30 added. Accordingly, claims 16-21 and 29-30 are pending.

Claim Objections

Claim 19 is objected to because the amended portion should read "indicates one of" rather than "indicates *on* of".

Appropriate correction is respectfully requested.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 16 and depending claims thereto are rejected under section 101 as reciting improper method claims. In particular, these claims recite a method (process) while lacking necessary language (e.g. the recitation of hardware) to tie the method to a statutory category (i.e. a particular apparatus in accordance with MPEP 2106.IV.B) of invention.

Under recent court decisions (e.g. see In re *Diamond v. Diehr*; *Parker v. Flook*; *Gottschalk v Benson*; *Cochrane v. Deener*) the Office's guidance is that a 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. The present method claims do not pass either prong of the "machine or transformation test" and accordingly may be accomplished purely by mental steps and therefore are not statutory.

In order for the method claims to be statutory they should positively recite the other statutory class (e.g. by identifying the apparatus that accomplishes the method steps) that the method is tied to as to impose meaningful limits on the claim's scope and to impart patent-eligibility.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by
another filed in the United States before the invention by the applicant for patent or (2) a patent
granted on an application for patent by another filed in the United States before the invention by the
applicant for patent, except that an international application filed under the treaty defined in section
351(a) shall have the effects for purposes of this subsection of an application filed in the United States
only if the international application designated the United States and was published under Article 21(2)
of such treaty in the English language.

Claims 16-21 are rejected under 35 U.S.C. 102(e) as being taught by Hand et al.

(U.S. Patent 7,032,071).   In the following citations and drawing references, Hand

teaches or describes:

With respect to claim 16, A method for supporting a plurality of graphical user

interface (GUI) application programming interfaces (APIs), the method comprising:

translating (col. 4 line 1, line 61-62, and col. 5 line 18) a plurality of elements (col.

5 line 19, col. 7 line 1-10) of a query model (col. 1 line 18-22; e.g. a CIM and instances

thereof, col. 5 line 67-101, and col. 6 line 1; e.g. a request for information) into objects

(col. 6 line 42-47) that are independent (col. 9 line 1-20, col. 10 line 29-39) of any type

of data structure (col. 4 line 59-65) associated with the plurality of GUI APIs (14a-b), the

plurality of elements (col. 5 line 19, col. 7 line 1-10) being translated through use (col. 3

line 54-63) of a model content provider (2) in communication with the query model (col.

1 line 18-22; e.g. a CIM and instances thereof, col. 5 line 67-101, and col. 6 line 1; e.g.

a request for information), the plurality of elements (col. 5 line 19, col. 7 line 1-10) representing a database statement (col. 2 line 20-22);

passing the translated objects from the model content provider (2) to a first content viewer (devices 6) in communication with (fig. 1) the model content provider (2), the first content viewer (devices 6) supporting multiple GUI APIs (14a-b);

passing the translated objects (col. 6 line 42-47) from the first content viewer (6) to a second content viewer (12), the second content viewer being in communication with the first content viewer (6) and an application (col. 4 line 54-59) written to run on a specific GUI API (col. 4 line 36) of the plurality of GUI APIs (14a-b), wherein each of the first (6) and second (12) content viewers is a hierarchical set of classes(fig. 1), wherein higher levels (6) of the hierarchical set of classes comprise more abstract structures (e.g. device structures), and wherein lower levels of the hierarchical set of classes comprise more GUI-specific structures (12, 14; e.g. device specific API); and

using the second content viewer (12) to manipulate the translated objects (col. 6 line 42-47) into one or more types of data structures (col. 4 line 22, col. 6 line 50-56) required (col. 4 line 22) by the specific GUI API (col. 4 line 36 and drawing reference 14 a,b) for use by the application (col. 4 line 54-59).

With respect to claim 17, the method of claim 16, wherein the one or more types of data structures comprise tables, trees, or lists (col. 4 line 22 and figure 2).

With respect to claim 18, the method of claim 16, wherein the database statement is a structured query language (SQL) statement (col. 4 line 56 and col. 7 line 3; therein Hand suggest a query to a database to teach a SQL statement.

With respect to claim 19, the method of claim 16, further comprising:

receiving information from the application via the first content viewer (6) and the second content viewer (12) at the model content provider, the received information being independent of any type of data structure (col. 3 line 67), wherein the information indicates on of an addition, a modification, and a deletion of at least one element in the query model (col. 4 line 22-27); and

creating one or more additional elements using the model content provider based on the received information responsive to the received information being an addition to the plurality of elements in the query model (col. 4 line 22-27).

With respect to claim 20, the method of claim 16, further comprising:

receiving information from the application via the first content viewer (6) and the second content viewer (12) at the model content provider, the received information being independent of any type of data structure (col. 3 line 67); and

removing one or more of the plurality of elements from the query model using the model content provider responsive to the received information being a deletion of the one or more elements in the query model (col. 14 line 13-17).

With respect to claim 21, the method of claim 16, further comprising:

providing both data (col. 8 line 22-33) and image (col. 7 line 27-28) information

for each of the plurality of elements (col. 5 line 19, col. 7 line 1-10) in the query model

(col. 1 line 18-22; e.g. a CIM and instances thereof, col. 5 line 67-101, and col. 6 line 1;

e.g. a request for information) to the first content viewer (6) using the model content

provider (2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 29-30 rejected under 35 U.S.C. 103(a) as being unpatentable over Hand

as applied to claims 16-20 above and further in view of Bogrett (U.S. Patent 6,581,054).

With respect to claim 29, Hand does not appear to expressly recite linking the

one or more additional elements in the query model.

Bogrett, however, appears to teach linking the one or more additional elements in

the query model (col. 2 line 12-20) for modifying a predefined query model.

In the same field of endeavor, (i.e. query modeling and translation), it would have

been obvious to one of ordinary skill in the data processing art at the time of the present

invention to combine the teachings of the cited references because the teachings of

Bogrett to modify a preexisting query model with the inclusion of linked tables (i.e. a

join) would have given Hand more supportive capabilities for accessing numerous

specific devices (need disclosed in col. 5 line 50-55, Hand).

With respect to claim **30**, Hand does not appear to expressly recite the one or

more additional elements comprises a table.

Bogrett, however, appears to teach the one or more additional elements

comprises a table (col. 2 line 12-20 and col. col. 5 line 1-3).

In the same field of endeavor, (i.e. query modeling and translation), it would have

been obvious to one of ordinary skill in the data processing art at the time of the present

invention to combine the teachings of the cited references because the teachings of

Bogrett to modify a preexisting query model with the inclusion of linked tables (i.e. a

join) would have given Hand more supportive capabilities for accessing numerous

specific devices (need disclosed in col. 5 line 50-55, Hand).

Response to Arguments

Applicant's arguments, see reply, filed 10/1/2008, with respect to the rejection(s)

of claim(s) 16-20 under Goldberg have been fully considered and are persuasive.

Therefore, the rejection has been withdrawn. However, upon further consideration, a

new ground(s) of rejection is made in view of Hand et al and Bogrett. as apparent

above. Accordingly, in light of the new grounds of rejections, arguments in the reply are

moot. The Examiner submits that the prior art teaches the limitations as presented above.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Timblin whose telephone number is 571-272-5627. The examiner can normally be reached on M-Th 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Cottingham can be reached on 571-272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ROBERT TIMBLIN/

Examiner, Art Unit 2167

/John R. Cottingham/

Supervisory Patent Examiner, Art Unit 2167